

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSEPH WAYNE CREEMEDICINE,

Defendant.

CR 12-53-GF-BMM-JTJ

**FINDINGS AND
RECOMMENDATIONS**

I. Synopsis

Defendant Joseph Wayne Creemedicine (Creemedicine) has been accused of violating a condition of his supervised release. Creemedicine admitted the alleged violation. Creemedicine's supervised release should be revoked. Creemedicine should receive a term of custody of 5 months, with no supervised release to follow. Creemedicine should receive credit for time served from September 23, 2018.

II. Status

Creemedicine pleaded guilty to 2 counts of Assault Resulting in Serious Bodily Injury on September 12, 2012. (Doc. 26). The Court sentenced Creemedicine to 35 months of custody, followed by 24 months of supervised release. (Doc. 37).

Petition

The United States Probation Office filed a Petition on September 27, 2018, requesting that the Court revoke Creemedicine's supervised release. (Doc. 82). The Petition alleges that Creemedicine violated the conditions of his supervised release by consuming alcohol. (Doc. 82 at 3). United States District Judge Brian Morris issued a warrant for Creemedicine's arrest on September 27, 2018. (Doc. 83).

Initial appearance

Creemedicine appeared before the undersigned for his initial appearance on January 15, 2019. Creemedicine was represented by counsel. Creemedicine stated that he had read the petition and that he understood the allegation. Creemedicine waived his right to a preliminary hearing. The parties consented to proceed with the revocation hearing before the undersigned.

Revocation hearing

The Court conducted a revocation hearing on January 15, 2019. Creemedicine admitted that he had violated the conditions of his supervised release by consuming alcohol. The violation is serious and warrants revocation of Creemedicine's supervised release.

Creemedicine's violation is a Grade C violation. Creemedicine's criminal history category is II. Creemedicine's underlying offenses are Class C felonies. Creemedicine could be incarcerated for up to 24 months. He could be ordered to

remain on supervised release for up to 14 months, less any custody time imposed. The United States Sentencing Guidelines call for a term of custody of 4 to 10 months.

III. Analysis

Creemedicine's supervised release should be revoked. Creemedicine should receive a term of custody of 5 months, with no supervised release to follow. This sentence is sufficient but not greater than necessary.

IV. Conclusion

The Court informed Creemedicine that the above sentence would be recommended to Judge Morris. The Court also informed Creemedicine of his right to object to these Findings and Recommendations within 14 days of their issuance. The Court explained to Creemedicine that Judge Morris would consider a timely objection before making a final determination on whether to revoke his supervised release and what, if any, sanction to impose. Creemedicine stated that he wished to waive his right to object to these Findings and Recommendations, and that he wished to waive his right to allocute before a United States district court judge.

The Court **FINDS:**

That Joseph Wayne Creemedicine has violated the conditions of his supervised release by consuming alcohol.

The Court **RECOMMENDS:**

That the District Court revoke Creemedicine's supervised release and commit Creemedicine to the custody of the United States Bureau of Prisons for a term of 5 months, with no supervised release to follow. Creemedicine should receive credit for time served from September 23, 2018.

**NOTICE OF RIGHT TO OBJECT TO FINDINGS AND
RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT**

The parties may serve and file written objections to the Findings and Recommendations within 14 days of their entry, as indicated on the Notice of Electronic Filing. 28 U.S.C. § 636(b)(1). A United States district court judge will make a de novo determination regarding any portion of the Findings and Recommendations to which objection is made. The district court judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district court judge, and may waive the right to appear and allocute before a district court judge.

DATED this 16th day of January, 2019.



John Johnston
United States Magistrate Judge